IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6724 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

KANJIBHAI DHULABHAI PRAJAPATI

Versus

SECRETARY KADI KELVANI MANDAL

Appearance:

1. Special Civil Application No. 6724 of 1990

MR RC JANI for Petitioner No. 1

MS KN VALIKARIMWALA for Respondent No. 1

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 12/04/2002

ORAL JUDGEMENT

1. The petitioner has approached this Court under Article 226 of the Constitution of India for quashing and setting aside the impugned order dated 3/9/1990 and to reinstate the petitioner in service and to permit him to

work in the school run by the respondent as Sweeper.

1.1. According to the petitioner he was working as Peon in the school run by the respondent in the name of G.P. Shah Primary School at Kadi on 8/1/1986. During the period of his service he had worked honestly and sincerely and to utmost satisfaction of the management of the school. However, he came to be relieved from the service vide order dated 3/9/1990 alleging that the petitioner was appointed as Sweeper in the school for carrying out the work of sweeping and on 3/9/1990 when he was asked to sweep the class rooms of standards 5th, 6th and 7th, he had refused to do so and he informed the management that if he was required to carry out the work of sweeping, he should be relieved from the service and accordingly that was done. He has, therefore, challenged the validity and legality of the impugned order on the grounds set out in the petition.

2. This Court admitted the petition on 5/11/1990 and issued notice as to interim relief. However, the interim relief was ultimately refused by the order of this Court dated 12/11/1990. After the matter was listed for final hearing, this Court was informed that the parties were trying to resolve the issue amicably. On that ground hearing of the petition came to be adjourned several times.

3. Today when the matter is called out Miss Valikarimwala, learned counsel for the respondent makes a statement that the respondent - management is prepared to take back the petitioner in service on his original post of Sweeper on the salary which he was drawing at the time when the impugned order came to be passed. She has stated that the petitioner will be made available all other benefits which are being given to other employees like the petitioner in the school. She has further stated that the management is willing to take the petitioner back in service provided petitioner forgoes his claim for back wages. Mr. Kirti Pancholi, learned advocate appearing for Mr. R.C. Jani, learned counsel for the petitioner, states that the petitioner is agreeable to this arrangement. In view of this statement, the grievance of the petitioner no more survives. The petition is, therefore, disposed of with no order as to costs. Rule discharge

[AKSHAY H. MEHTA, J.]

* Pansala.